

APPEAL NO. 040366
FILED MARCH 24, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 14, 2004. The hearing officer determined that the appellant (claimant) did not sustain a compensable repetitive trauma injury with a date of injury of _____; that the claimed injury of _____, does not extend to and include an injury to the cervical spine; and that the claimant does not have disability. The claimant appeals on sufficiency of the evidence grounds. The respondent (self-insured) responds, urging affirmance.

DECISION

Affirmed.

An occupational disease includes a repetitive trauma injury. Section 401.011(34). The claimant contended that she sustained a repetitive trauma injury from performing her work activities for the employer. The claimant had the burden to prove that she sustained a repetitive trauma injury as defined by Section 401.011(36). Conflicting evidence was presented on the disputed issues of whether the claimant sustained a compensable injury in the form of an occupational disease, the extent of the injury, and disability. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's determinations on the disputed issues are supported by sufficient evidence and that they are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**SUPERINTENDENT
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Michael B. McShane
Appeals Panel
Manager/Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Margaret L. Turner
Appeals Judge